

**REMARKS**

Claims 1, 2, 7, 14, and 21 are currently amended. Claims 23-24 have been canceled as corresponding to non-elected subject matter, and Applicant reserves the right to reintroduce the claims 23-24 in one or more divisional applications. The specification has been amended, as have drawings 4a-4c, 5, and 6. Figure 4d has been canceled. Applicant respectfully submits that the amendments contained herein are fully supported by the specification and drawings as originally filed and do not contain new matter.

**Election/Restrictions – Examiner Interview Summary**

A provisional restriction requirement was made on March 24, 2006 during a telephonic interview between Examiner Jessica Laux and the below-signed Patent Agent, Tod A. Myrum. Applicant hereby affirms the election of Group I (claims 1-22) without traverse.

**In the Drawings**

The drawings were objected to as failing to comply with 37 CFR § 1.84(p)5 because element 15 was not shown in Figure 2 and the specification refers to surface portions 15. Reference number 15 was inadvertently used in place of reference number 12. The specification has been amended to replace reference number 15 with reference number 12, thereby overcoming the objection. This is supported throughout the specification.

The drawings were objected to under 37 CFR § 1.83(a) because they fail to show: (1) the sub-construction in the form of a mat with material fastened to the top, (2) the closed hollow space filled with a substance, (3) conductingly filled vessels as described in the specification. Applicant respectfully submits that a mat is described on page 7, line 21, of the specification in conjunction with Figure 1. Figure 2 viewed in conjunction with Figure 1 shows material on the top of the structure of Figure 1. The drawings and the specification have been amended to include reference 28 that refers to the conductingly connected vessels. Applicant respectfully submits that it seems unnecessary to disclose exactly the embodiments with closed hollow spaces or conductingly connected vessels by separate figures to one of ordinary skill in the art. Applicant contends that a proper understanding of the disclosed invention to one of ordinary skill in the art is possible with the present figures and description.

The drawings were objected to because Figures 4a-4d, 5, and 6 fail to have reference numbers. Figures 4a-4c, 5, and 6 have been amended to overcome the objection thereto. Figure 4d has been canceled, mooting the objection thereto.

*In the Specification*

The specification has been amended to include the reference numbers of Figures 4a-4c, 5, and 6, as amended above. Applicant contends that the specification, as amended, describes Figures 4a-4c, 5, and 6 in such a way as to make them enabling to one of ordinary skill in the art. Moreover, reference number “15” has been changed to reference number “12” so as to conform the specification to the drawings. Therefore, the objections to the specification are overcome.

*Claim Rejections Under 35 U.S.C. § 112*

Claims 1, 2, 7, 14, 17, and 21 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 1, 2, 7, 14, and 21, as currently amended, overcome the rejections under 35 U.S.C. § 112, second paragraph. Regarding claim 17, the meaning of “sealing means” is clear to one of ordinary skill in the art in the context of claim 17 and further in light of the specification, i.e., the paragraph beginning on page 2, line 30, and ending on page 3, line 2, where “sealing means” is discussed. Therefore, the rejection of claim 17 under 35 U.S.C. § 112, second paragraph, should be removed.

*Claim Rejections Under 35 U.S.C. § 102*

Claims 1-6, 12-13, and 15-16 were rejected under 35 U.S.C. § 102(b) as being anticipated by Kupfer (U.S. Patent No. 4,620,816). Claims 1 and 7 were rejected under 35 U.S.C. § 102(b) as being anticipated by Doose (DE Patent No. 4021958 A1). Claims 1, 9-11, and 17-18 were rejected under 35 U.S.C. § 102(b) as being anticipated by Streit et al. (U.S. Patent No. 5,542,221). Claims 1, 12, 14, and 22 were rejected under 35 U.S.C. § 102(b) as being anticipated by Donovan (U.S. Patent No. 4,557,475). Applicant respectfully traverses.

Claim 1, as currently amended, is directed to a floor construction having a plurality of surface portions. Each surface portion has at least one respective material with different properties. The properties in regard to human perception when stepping on the surface portions,

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are characterized in that different surface portions are of such an arrangement and configuration that when moving on the floor construction a continuously changing, unforeseeable sequence of different surface portions has to be unavoidably stepped on.

Kupfer and Doose disclose guidance systems for supporting the orientation for people with impaired vision. Streit et al. and Donovan disclose safety floors to reduce injuries due to falls by using shock absorbers. The floor construction of claim 1 cannot be classified as either a guidance system for supporting the orientation for people with impaired vision or a safety floor to reduce injuries due to falls by using shock absorbers. Kupfer, Doose, Streit et al., and Donovan each pursue a purpose different than claim 1 and none of them disclose a floor system having surface portions with properties in regard to human perception when stepping on the surface portions, are characterized in that different surface portions are of such an arrangement and configuration that when moving on the floor construction a continuously changing, unforeseeable sequence of different surface portions has to be unavoidably stepped on.

Kupfer teaches a floor construction with a plurality of surface portions with different properties arranged in a continuously regularly repeated manner. Therefore, Kupfer's floor construction is not arranged in an unforeseeable sequence, as is the floor construction of claim 1. If Kupfer's floor construction was arranged in an unforeseeable sequence, it would be contrary to the idea of guiding people. Blind or visually impaired people trust in "foreseeable" surfaces and are thus guided to their respective destination thereby. If the sequence of Kupfer was unforeseeable, blind or visually impaired people would not be able to follow a path and would not know their position location with respect to the boundaries of an area having a walking surface and the spatial dimension of the area traversed, as indicated in Kupfer's Abstract. Claim 1 pursues an object contrary to Kupfer, namely to enhance the perception of a person walking over the floor construction by providing different surfaces in an unforeseeable sequence. Especially, the different surfaces made of different materials in a random arrangement lead to a stimulation of the senses. Therefore, Kupfer does not include each and every recitation of claim 1, so claim 1 should be allowed over Kupfer.

Doose includes an arrangement of paving blocks in a predetermined arrangement, thus giving people a feeling of safely following a correct path by always keeping on track as long as the feedback of the perception of the floor complies with their expectation. Only because the

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arrangement of the paving blocks is foreseeable is it possible to use them as a guiding system. Therefore, Doose does not include each and every recitation of claim 1, so claim 1 should be allowed over Doose.

Streit et al. discloses a flooring system with a plurality of uniform columns that are sandwiched between two flexible plates. The arrangement of the plates is stable laterally during normal locomotion of a subject, but buckles to reduce peak subject loading upon impact from a fall. Donovan discloses an activity field with a cushioned, resilient rubber mat to damp impacts caused by a fall and to reduce possible injuries.

The flooring systems of Streit et al. and Donovan solve totally different problems than the floor construction of claim 1. It is clear the Streit et al. and Donovan each have a plurality of surface portions, with each surface portion having at least one material. However, Applicant carefully reviewed Streit et al. and Donovan and found no indication in either of surface portions of an arrangement and configuration that when moving on the floor construction a continuously changing, unforeseeable sequence of different surface portions has to be unavoidably stepped on, as in claim 1. Therefore, neither Streit et al. nor Donovan includes each and every recitation of claim 1, so claim 1 should be allowed over Streit et al. and Donovan.

Claims 2-7, 9-18, and 22 depend from claim 1 and are thus allowable for at least the same reasons as claim 1. Therefore, claims 2-7, 9-18, and 22 should be allowed.

*Claim Rejections Under 35 U.S.C. § 103*

Claims 8 and 19-21 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Kupfer in view of Hydock (U.S. Patent No. 7,013,609). Applicant respectfully traverses.

Claim 1, as currently amended, is patentably distinct from Kupfer. Moreover, Kupfer in combination with Hydock fails to overcome the deficiencies of Kupfer with respect to claim 1. Therefore, claim 1 is allowable over Kupfer in view of Hydock. Claims 8 and 19-21 depend from claim 1 and are thus allowable for at least the same reasons as claim 1. Therefore, claims 8 and 19-21 should be allowed.

**RESPONSE TO NON-FINAL OFFICE ACTION**

Serial No. 10/723,223

Title: FLOOR CONSTRUCTION

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Attorney Docket No. 156.003US01

**CONCLUSION**

In view of the above remarks, Applicant believes that all pending claims are in condition for allowance and respectfully requests a Notice of Allowance be issued in this case. Please charge any further fees deemed necessary or credit any overpayment to Deposit Account No. 501373.

If the Examiner has any questions or concerns regarding this application, please contact the undersigned at (612) 312-2208.

Respectfully submitted,

Date: 08 - 22 - 06



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